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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/557,928	04/22/2000	Darrell R. Colbert	COLPATUS002	9057

7590 05/08/2002

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EXAMINER

KING, BRADLEY T

ART UNIT	PAPER NUMBER
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3683

DATE MAILED: 05/08/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.
09/557,928

Applicant(s)

Casperson

Examiner

Bradley King

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on Jan 17, 2002
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above, claim(s) _____ is/are withdrawn from consideration. ⁹
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-11, 14, and 15 is/are rejected.
- 7) ☒ Claim(s) 12, 13, and 16-20 is/are objected to.
- 8) ☐ Claims _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are objected to by the Examiner.
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

- 13) ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).
- a) ☐ All b) ☐ Some* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- *See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

- 15) ☒ Notice of References Cited (PTO-892)
- 16) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 17) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____
- 18) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 19) ☐ Notice of Informal Patent Application (PTO-152)
- 20) ☐ Other:

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DETAILED ACTION

Election/Restriction

Applicant's arguments regarding the election requirement are persuasive. The requirement has been withdrawn.

Claim Rejections - 35 USC § 112

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claim 15 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 15 recites "wherein the plastic wrapper is attached to the spine by ring elements". It is unclear which element corresponds to the plastic wrapper as the wrapper shown in figure 3 (element 22) does not appear to attach to the spine, but rather it is received in a pocket.

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Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claim 1 is rejected under 35 U.S.C. 102(b) as being anticipated by JP 8-80691.

JP 8-80691 discloses all the limitations of the instant claim including a scented calendar.

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 2-5 are rejected under 35 U.S.C. 103(a) as being unpatentable over JP 8-80691.

JP 8-80691 discloses all the limitations of the instant claims with exception to the particular type of artwork and scents. It is well known in the art to provide calendars with a variety of different artwork including flowers. It would have been obvious to a person of ordinary skill in the art at the time the invention was made to utilize various images and scents

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for the calendar of JP 8-80691 to provide the desired aesthetic quality. Also note *In re Seid*, 161 F.2d 229, 73 USPQ 431 (CCPA 1947).

7. Claims 6-11, and 14-15 are rejected under 35 U.S.C. 103(a) as being unpatentable over JP 8-80691 as applied to claim 5 above, and further in view of Murray.

JP 8-80691 discloses all the limitations of the instant claims with exception to the particular calendar layout. The layout recited by claims 6-7 is well known in the art. Murray discloses this layout including artwork on one face and a monthly calendar image on the other, and a hole 19 on the bottom of the calendar image to permit hanging. It would have been obvious to a person of ordinary skill in the art at the time the invention was made to utilize the layout of Murray with the scent feature of JP 8-80691 to provide an aromatically pleasing calendar in a compact and easily manufacturable form.

Regarding claim 7, Murray discloses a spiral type fastener (column 2, lines 21-22).

Regarding 8-11, JP-8-80691 lacks a separate scent element positioned between the images, but instead discloses the use of aromatic ink. Scent elements are well known in the art and frequently utilized in cards and inserts. It would have been obvious to a person of ordinary skill in the art at the time the invention was made to provide a separate scent element in the calendar of JP 8-80691 to simplify construction and permit the use of a greater number of aromas, and placing the element between the images as it provides a convenient location which does not interfere with the viewing of the calendar.

Regarding claims 14-15, JP 8-80691 discloses a plastic wrapper 3.

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Allowable Subject Matter

8. Claims 12-13 and 16-20 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.


Conclusion

9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Harris et al, Spector, Barnett et al, Brizard, Friedman et al, and Tabacchi. All show fragrant products.

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Bradley King whose telephone number is (703)308-8346.

BTK

May 2, 2002


JACK LAVINDER
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3600
5/6/02